S. HRG. 98-109

NOMINATION OF JOSEPH E. SHERICK TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

NOMINATION OF

JOSEPH E. SHERICK TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

MARCH 22, 1983

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NOMINATION OF JOSEPH E. SHERICK TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

TUESDAY, MARCH 22, 1983

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 2:15 p.m., in room 222, Russell Senate Office Building, Senator John Tower (chairman) presiding.

Present: Senators Tower, Thurmond, Warner, Jepsen, Levin, and Kennedy.

Staff present: Alan R. Yuspeh, general counsel; James G. Roche, minority staff director; Paul C. Besozzi, minority counsel; Christine C. Dauth, chief clerk; Anthony J. Principi, counsel; and Willis D. Smith, deputy staff director and chief scientist for the minority; Richard D. Finn, George K. Johnson, Jr., and David S. Lyles, professional staff members; and Tamara L. Farnsworth, staff assistant.

Also present: John Campbell, assistant to Senator Warner; Ron Kelly, assistant to Senator Humphrey; Jim Dykstra, assistant to Senator Cohen; Jon Etherton, assistant to Senator Jepsen; Greg Pallas, assistant to Senator Exon, and Matthew Murray, assistant to Senator Kennedy.

OPENING STATEMENT BY SENATOR JOHN TOWER, CHAIRMAN

Chairman TOWER. The committee will come to order.

Gentlemen, we have a full agenda today. In addition to considering the nomination of Mr. Sherick, we have some routine military nominations to consider and two markups.

This afternoon we consider the nomination of Joseph H. Sherick to be Inspector General of the Department of Defense. We are pleased to have Mr. Sherick with us today. Mr. Sherick, your biography and nomination reference will be included in the record.

[The nomination reference and biographical sketch follow:]

NOMINATION REFERENCE

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
March 8, 1983.

Ordered, that the following nomination be referred to the Committee on Armed Services:

Joseph H. Sherick, of Virginia, to be Inspector General, Department of Defense. (New position.)

BIOGRAPHICAL SKETCH OF JOSEPH H. SHERICK, ASSISTANT TO THE SECRETARY OF DEFENSE (REVIEW AND OVERSIGHT)

Born: Philadalphia, Pa., October 1, 1924.

Education: B.A., Public Administration, 1950, Temple University, Philadelphia, Pa.; J.D., Temple University Law School; 1958, Philadelphia, Pa.

Military service: U.S. Navy—Active duty 1942–1946, U.S. Navy Reserve—Active Reserve 1946–1951.

Civilian service:

U.S. Army, Frankford Arsenal, Philadelphia, Pa., 1950–1958. Began service as Finance and Accounting Assistant serving in Procurement, Supply and Manufacturing activities of the Arsenal; served as Supervisory Budget Officer of the Arsenal from 1954 to 1958.

Office Chief of Staff, Army, Pentagon, Washington, D.C., 1958–1959. Served as Budget System Specialist for Logistics Procurement, and Foreign Aid activities of the Army. (Designed management and financial control systems for Army-wide supply procurement and logistics activities.)

Office of Management and Budget, Executive Office of the President 1959–1966. Served as Budget Organization, Management, and Manpower Specialist in the Office of the Assistant Director for Budget Review (1960–1962).

Served as Assistant to the Chief, Military Division 1962–1966.

Defense Nuclear Agency 1966–1968. Served as the first civilian Comptroller of the Agency.

Office, Secretary of Defense, Pentagon 1968–1973. Served as Budget Director for Research and Development in the Office of the Assistant Secretary of Defense (Comptroller). Represented the Comptroller as Financial Advisor to the Director of Defense Research and Engineering, now USDR&E. (Senior Budget Analyst and Financial Officer for Defense Research and Development activities.)

Office, Chief of Staff, U.S. Army, Pentagon 1973–1976. Served as Deputy Comptroller of the Army (Chief Civilian Financial Officer of the Army).

Office, Secretary of Defense, Pentagon 1976–1981, Deputy Assistant Secretary of Defense (Program/Budget), (Department of Defense Budget Officer).

Office, Secretary of Defense, Pentagon May 1981 to present. Assistant to the Secretary of Defense (Review and Oversight.)

Awards: DASA Exceptional Civilian Service Medal, 1967. Secretary of Defense Meritorious Civilian Service Medal, 1973. Army Exceptional Civilian Service Medal, 1975. Secretary of Defense Meritorious Civilian Service Medal with Palm, 1976. Secretary of Defense Distinguished Civilian Service Medal, 1980. Distinguished Executive in the Senior Executive Service, 1981. Seven Outstanding Performance Awards.

Member of the Bar—District of Columbia and Virginia.

Family: Married to Alice O'Connor Sherick of Philadelphia, Pa. Seven children, five sons and two daughters.

Chairman TOWER. The hearing today is an historic one in that Mr. Sherick, if confirmed, will become the first Inspector General of the Defense Department. The position of Inspector General was created by the Department of Defense Authorization Act of 1983.

The statute charges that the Inspector General shall be the principal advisor to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department. He is charged with initiating, conducting, and supervising audits and investigations in the Department.

At a time when there is great attention to the operations of the Defense Department, I am certain that the country will watch with great interest the work that is performed by the Inspector General and his office.

In that respect, Mr. Sherick, you will have a substantial and viable responsibility, assuming that you are confirmed by the U.S. Senate.

I should note for the record that Mr. Sherick brings to the position of Inspector General substantial experience with the Federal Govern-

ment. He has served in governmental positions for the last 32 years. Many of these have been either in the Department of Defense or related to defense matters.

Mr. Sherick has received numerous awards for his outstanding Government service, including the distinguished executive in the senior executive service award in 1981, and the Secretary of Defense distinguished civilian service medal in 1980.

Mr. Sherick has most recently served as the assistant to the Secretary for Review and Oversight which has been very similar to the Inspector General position. Consequently, he brings a great deal of direct knowledge to this job.

I would like to note for the record of this hearing that Mr. Sherick has met with the staff of the committee to review his financial holdings and to insure that he will be in compliance with our committee's requirements so as to avoid any conflict of interest between his personal finances and his Government responsibilities.

I would further state for the record that Mr. Sherick does not have any financial interests in any defense contractor. Accordingly, he appears to be in full accord with Federal laws regarding conflict of interest.

We are pleased to have with us our own colleague on the committee, Senator Warner, who will present the witness to the committee.

STATEMENT OF SENATOR JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman and Mr. Thurmond and Mr. Levin.

The Chair has indeed covered the pertinent part of this distinguished citizen's achievements. He, of course, is a citizen of my State of Virginia.

As I look back over his accomplishments in the Department of Defense, he has indeed served in the most unique and diverse series of positions that I have ever witnessed. I think that uniquely qualifies him to be the first in history to occupy this very important post.

Mr. Chairman, I will only add that I have had a lengthy discussion with the nominee and have reviewed his record. I have also had discussions with a number of his colleagues in the Department he has served in for many years and who have known him and observed his work.

Most importantly, I think that he has a philosophy which I share. His philosophy is that if there is any waste, fraud, or abuse of the funds expended by the Department, that will be his principal target to zero in on and see what can be done to eliminate it.

I know of no aspect of the defense budget that is more disturbing to the American public than to learn of waste, fraud, or abuse. We discussed one or two of the present cases in my office and he is prepared to address his immediate attention to that area.

Mr. Chairman, I would like to submit my observations for the record in view of the Chair's able summary of these facts.

At this point I will turn it over to Mr. Sherick.

Chairman TOWER. Thank you, Senator Warner. Your statement will be included in the record.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF SENATOR JOHN W. WARNER

Mr. Chairman: It is, indeed, a pleasure and an honor to introduce to my colleagues a fellow Virginian, Joseph H. Sherick, as President Reagan's nominee for the first Inspector General of the Department of Defense.

I have long believed in the importance of fighting even the appearance of waste, fraud and abuse in the government. Nothing undermines public confidence more rapidly than the perception that public funds are being misused. I believe that Mr. Sherick shares this view. A review of his record indicates that he is both a logical and a worthy candidate for Inspector General. Mr. Sherick has served his country admirably in positions related to its defense since 1941, serving first in the Active Duty Navy until 1946, followed by service in the Navy Reserve for five years.

Born in Philadelphia, Pennsylvania, Mr. Sherick was educated at Temple University and also received his law degree from there in 1958. Since the early 1950's, he has held high-level positions in the varied fields of finance, accounting, procurement, research and development and budgeting with the U.S. Army, the Office of Management and Budget, the Defense Nuclear Agency, and the Office of the Secretary of Defense.

While at the Office of Management and Budget, he served as Assistant to the Chief of the Military Division. At the Defense Nuclear Agency, he served as the first civilian Comptroller. Breaking new ground appears to be a common practice for Mr. Sherick.

From 1968–1973, he was the Budget Director for Research and Development in the Office of the Assistant Secretary of Defense, Comptroller. That was followed by a three year appointment as the highest ranking civilian financial officer of the U.S. Army, the Deputy Comptroller. In 1976, he became the Deputy Assistant Secretary of Defense for Program/Budget. In this capacity, he was responsible for reviewing the budgets submitted by the services and developing the Department of Defense budget for submission to the President.

At present, Mr. Sherick is the Assistant Secretary of Defense for Review and Oversight—a position that has certainly prepared him for the position of Inspector General. He has experience in combatting waste, fraud and abuse, and I am confident that he will continue diligently in this effort.

Mr. Chairman, I consider it an honor to be able to both introduce and recommend Mr. Joseph H. Sherick as the Department of Defense's first Inspector General.

Chairman TOWER. Before you make a statement, Mr. Sherick, I believe Senator Thurmond would like to say a word. He is chairman of the Judiciary Committee.

Senator THURMOND. Thank you very much, Mr. Chairman.

I have a conflict. I just want to add my words of welcome here to Mr. Sherick. I have had the opportunity to talk with him and am very impressed with him. He has served faithfully, diligently and capably in the Defense Department for a number of years. He has had vast experience and his distinguished record of public service speaks for itself.

I am sure, Mr. Sherick, you will be a great help to the Secretary of Defense in your capacity as Inspector General. I know your duties and responsibilities as Inspector General will be immense. You realize that and I am positive that you will do a fine job.

I wish you the best of luck and if we may assist you in any way at any time, do not hesitate to call upon us.

Mr. Chairman, if you will take my proxy or if you need me, call me and I will come back.

Thank you very much.

Chairman TOWER. Mr. Sherick?

STATEMENT OF JOSEPH H. SHERICK

Mr. SHERICK. Mr. Chairman and members of the committee, I do not have a prepared statement, but I would like to say a few words about how I feel about this job.

I spent most of the last 40 years serving my country, both as an enlisted man in the Navy in World War II and as a career civil servant. I think with this nomination I am both honored and humbled by the confidence that the President and the Secretary of Defense have in me.

As you mentioned earlier, I believe it is a very historic occasion. I think the Office of the Inspector General in the Department of Defense is something that has been a long time in coming. It certainly will fill a need that has been outstanding for some time.

We have many, many dedicated people in the Department—some 17,000 of them who now serve as military inspectors general, criminal investigators, and as auditors, in both of our contracts and internal activties.

The Inspector General of the Department of Defense will be expected to coordinate that entire activity to insure that there is an active and a centralized effort to prevent and eliminate fraud, waste, and abuse. I see it as a challenge and I look forward to carrying out the congressional mandate in that connection.

I am now available for questions.

Chairman TOWER. Thank you, Mr. Sherick.

Mr. Sherick, will you agree to appear before this committee or any other appropriate committee of the Congress when asked to do so and fully answer any questions asked of you during such appearance?

Mr. SHERICK. Yes, sir.

Chairman TOWER. What are some of the areas that you would give priority to in the Inspector General's Office?

Mr. SHERICK. I think the major area of consideration is that of procurement. We spend about half of our money in that area. Unfortunately, we have not dedicated sufficient resources to audit an investigation in that area. I think that is the area that needs more and closer attention. I would give that priority.

Another area to which I have been giving priority and intend to give further priority is that area of audit followup. I think that we have some 8,500 auditors in the Department of Defense and we have not given nearly enough attention to the recommendations that they make. I think if it is worthwhile to have auditors, it is worthwhile at least to evaluate their recommendations for improvement in managing the Department, and to accept the ones considered worthwhile.

Those are two major areas where I think I would give priority attention.

Chairman TOWER. Thank you, Mr. Sherick.

You know we are very much concerned about what we get in return for our defense dollar. We think very often we do not get an adequate return. Although it is not your job, it will certainly be your job to determine whether or not we are getting it at the best price possible.

Mr. SHERICK. Yes, sir.

Chairman TOWER. I have read many instances where we are buying off-the-shelf items at a higher price than the general public buys them.

Senator Levin?

Senator LEVIN. Thank you, Mr. Chairman.

I congratulate you, Mr. Sherick, on your appointment.

I have a few questions of you. I also have had an opportunity to meet you in my office. I am very much impressed with you and your background. You are taking over a critical job, one that is long overdue, one which we hope will produce savings in defense expenditures and also produce some credibility in the defense budget.

THRESHOLD FOR CERTIFICATION

One of the issues that we faced last year, which we acted on last year, was the question of certification of the accuracy of cost and pricing data, part of the audit procedure which you said you wish to emphasize.

Last year we increased the threshold for that certification requirement from the $100,000 to $500,000 and just recently the Governmental Affairs Committee, of which I am a member, went back to the old $100,000 figure in a bill which we just marked up.

I am wondering whether you would support returning to the $100,000 figure for certification on the ground that it would help the audit process, help enforce contracts, and help deter any actions on the part of contractors in violation of contracts?

Mr. SHERICK. I recognize what you are saying and I understand it.

One of the things that bothers me is that even with the threshold, no matter where it is, I do not think we have done enough auditing even at the $500,000 level. I do not think we have looked enough at those contracts.

What I would like to do is make sure we have the coverage even at that level and then examine whether we have the capability to go beyond that. I have no problem with that at all.

Senator LEVIN. Do you have any problem going to the $100,000?

Mr. SHERICK. No, not if we feel that we have the capability and the ability to do it.

Senator LEVIN. Even without the capability of auditing those contracts, doesn't that certification serve as a deterrent?

Mr. SHERICK. The certification does, there is no question about it.

Senator LEVIN. Why would you favor returning to the $100,000 threshold just for that purpose alone?

Mr. SHERICK. You know, the certification without the threat of audit does not really do that. I think you need the capability to do the audit, too.

Senator LEVIN. Does it hurt to have the certification?

Mr. SHERICK. I do not think that it hurts, no. Certainly it does not.

RELATIONSHIP WITH INSPECTORS GENERAL

Senator LEVIN. How do you view the relationship between the Inspector General, your position, and the inspectors general in the individual services? Do you have any supervisory capacity over them?

Do you have the ability to review their work? What is the arrangement that is going to be made between you and them?

Mr. SHERICK. The inspectors general in the military departments, of course, have a traditional military role in that they are concerned with the readiness of the force, the morale and discipline of the force. That is their primary responsibility.

They also have a role in fraud, waste, abuse, and mismanagement. Prior to the time that the position as Assistant to the Secretary was created, one of the criticisms that was made of the Department auditors, investigators, and inspectors general was the fact that not only did the internal investigators, inspectors, and auditors not talk to each other, in many cases they did not know each other.

One of the first things I did was bring the inspectors general together and we meet regularly. The inspectors general are a major conduit for hotline complaints that are passed down to the military departments.

I have oversight responsibility over all programs and operations of the Department of Defense including the inspectors general. I review their reports when I feel that they have addressed an issue that I am interested in.

As I say, they cooperate with me and I work closely with them. I generally propose projects and I do not see any problem in dealing with them.

Senator LEVIN. So that if something is brought to your attention that is within one of the Inspector General's branches or one of the branches he has been working in, you have the authority to review that matter, reach your own independent decision and yours will be the ultimate decision for the armed services?

Mr. SHERICK. Yes. I would bring my decision to the Secretary of Defense. I just had an instance that this committee is going to address where I reviewed a report of a service inspector general and found it wanting. I so reported to the Secretary of Defense and he took action.

Senator LEVIN. Do you have the direct line of authority over that inspector general?

Mr. SHERICK. No. I say that I do not have their timecards, I have their report card in that I have oversight responsibility.

Senator LEVIN. So, you will not have the direct authority to countermand a finding or recommendation of an inspector general in the individual services, but you will have the authority to take over the matter, yourself, to review the matter and make recommendation to the Secretary of Defense, yourself?

Mr. SHERICK. Yes. I feel they all work for the Secretary of Defense.

Senator LEVIN. If there is a conflict between that other inspector general's findings and yours?

Mr. SHERICK. Then the Secretary of Defense has to make a decision.

Senator LEVIN. Will both of those be made public to the extent either of them is made public?

Mr. SHERICK. My reports have been public. It depends on the report and depends on what kind of confidentiality agreements are made.

Senator LEVIN. Assuming there is no problem of confidentiality?

Mr. SHERICK. If the case is closed, I would say yes.

Senator LEVIN. Both would be disclosed.

Mr. SHERICK. I would think so, yes.

Senator LEVIN. Do you believe that communications to you from either the executive branch or the legislative branch are privileged?

Mr. SHERICK. In what way?

Senator LEVIN. If I call you on the phone and state you have a matter under consideration that I am very much interested in, this contract is in my home State. You are doing X Y Z. I suggest you look into ABC. Two months later you are asked about the conversation.

Assuming it is in confidence, do you consider our conversation or a similar conversation with somebody at the White House privileged?

Mr. SHERICK. I do not think it would be privileged.

Senator LEVIN. I want to go back for one moment to the first question I asked you having to do with the $100,000 and $500,000 threshold. It is an important question. I think it reflects either well or badly on your determination to get at the problem of procurement in the Defense Department.

I indicated without the threat of an audit that there is not much to turn to, having that lower threshold.

Mr. SHERICK. In audit or investigation?

Senator LEVIN. There is a lot less deterrence clearly in the absence of an audit. Assuming there is some deterrent value in requiring certification, wouldn't this remind the contractor of the potential of an audit and therefore serve as a deterrent to make sure that the information is accurate that is being supplied?

Would you not on that basis alone be able to support the $100,000 threshold?

Mr. SHERICK. As I say, any certification that you can then do an investigation on and even indict if it is a false certification is certainly a deterrent. It is a question of how much protection you want, whether you think there is an area where there is a lot of abuse and what it does to people that do business with you.

Senator LEVIN. We are going to be asking you for your position on that issue, what will your position be? Should we go back to the $100,000 or stay at the $500,000?

Mr. SHERICK. From my own personal selfish point of view if I am the Inspector General, I would prefer $100,000. I do not know what that does to paperwork or discouraging people who might want to do business with the Government but object because of complications.

Senator LEVIN. I have reviewed your record. I must tell you I am delighted with your appointment. I have all the assurances from you of your independence that one can give. I believe you will be independent. We need it of all of our inspectors general. That is the name of the game for inspectors general. You have a good record.

I am assured you do not own any stock that provides you with any conflict. You probably do not have any stock, given the fact you have seven children.

Mr. SHERICK. That is right. That is all the stock I have.

Senator LEVIN. Of all your accomplishments, that may be your grandest at this point in your life. You have seven children and that is your security. I commend you on your record and I wish you well.

Mr. SHERICK. Thank you very much.

Chairman TOWER. Senator Kennedy?

Senator KENNEDY. Thank you, Mr. Chairman.

I, too, want to congratulate the President in making this recommendation and also state that in reviewing the background of the nominee it is enormously impressive and very commendable over a long period of time.

I would hope, Mr. Chairman, the fact that Mr. Sherick named one of those seven children John Fitzgerald Kennedy Sherick would be some indication of his good sense and sound judgment.

[Laughter.]

Senator LEVIN. If not a political reason.

Senator KENNEDY. We will keep that in the quiet of this room.

There are just a few items, and I think Senator Levin has in this last question touched on it, but I would like to just review very, very briefly with you.

The statute indicates that "The Inspector General shall be under the authority, direction and control of the Secretary of Defense with respect to audits or investigations or the issues of subpoenas which require access to information concerning", and then it lists five different categories.

INDEPENDENCE OF INSPECTOR GENERAL

I would be interested to know, to the extent that you can share with us, any conversations you have had with the Secretary of Defense as to the kind of flexibility that you will have in reviewing those areas which fall into those categories that you would consider would be important to review, given the responsibility that you have and whether again you feel satisfied that you will be able to have the kind of support for such a review which would be necessary in carrying forward your general responsibilities?

Mr. SHERICK. Right now my auditors are deeply into the intelligence area and intelligence program. In the last 1½ years there has never been an instance when anyone has said to me do not do this or do not do that. In fact, just the opposite is involved.

I have been asked to do things in that area and to assign auditors on special inquiries into that area.

Senator KENNEDY. So in the areas of fraud, waste, and abuse, even the ones that will be covered by that particular statute, you would feel absolutely no inhibition at this time?

Mr. SHERICK. I have no outstanding problem at all.

Senator KENNEDY. Has the Secretary indicated any areas which he would prefer you not get into?

Mr. SHERICK. No. His complete attitude with me has been "go get them." He has been very supportive. Every time there has been a challenge of any kind he has been very supportive.

Senator KENNEDY. You have mentioned the general area of procurement as being an area which you would be very much interested in reviewing. I think over the period of this year we have heard testimony from those who are involved in that area within the Defense Depart-

ment about the cost overruns and the reasons why there are underestimates for various kinds of weapon systems.

Would these be areas that you will be inquiring into as well?

Mr. SHERICK. This is one of the things I have been doing for Frank Carlucci. We have a very precise system for making decisions concerning the development and procurement of weapon systems.

One of the problems we have had over the years is, that even though we know all the wickets that we should go through before we make a decision to move into development or to move into procurement, we have tended not to follow our own discipline.

One of the initiatives that Secretary Carlucci put into effect was to have us audit the documentation for each weapon system as it moved to decision so that we could, at time of decision, say whether all the testing has been done, whether all the wickets that the weapon system is supposed to get through before we come to a decision have in effect been done, whether the cost estimates have been made, whether the independent estimates have been made, et cetera.

That is one of the things we have been doing. We hope that by imposing that discipline through the use of audits we will improve, and we are improving the management of our weapon systems development and procurement.

Senator KENNEDY. What about the requests by the members of the committee? Are you openminded and would you consider seriously requests by members of the committee who feel that for one reason or another certain areas need to be reviewed?

Mr. SHERICK. Yes, sir.

Chairman TOWER. You are talking about individual members of the committee?

Senator KENNEDY. I assume those requests come from the committee itself, general requests. I do not know what the procedures are, but if there are individual members who have requests that they would be supported by the committee.

Chairman TOWER. That would be a matter for determination by the committee. It has always been the disposition of the Chair to honor any Senator's request.

Mr. SHERICK. One of the problems—and I think all the inspectors general have the same problem—is one of resources. It is always a question of what you cannot do, which project you do not do.

Senator KENNEDY. Has the Secretary indicated some areas that he wants you to be involved in at the present time?

Mr. SHERICK. Yes, sir. Procurement is the major area.

Senator KENNEDY. I just want to welcome you. I think we are very fortunate to have your nomination and your service. I will certainly look forward to supporting the nomination.

Mr. SHERICK. Thank you very much.

Chairman TOWER. Senator Jepsen?

Senator JEPSEN. No questions, Mr. Chairman.

I echo some of the closing statement of the distinguished Senator from Massachusetts.

Senator LEVIN. Mr. Chairman, may I ask one more question?

Chairman TOWER. Mr. Levin?

Senator LEVIN. Thank you, Mr. Chairman.

MR. CHUCK SPINNEY

Recently we had a rather unusual hearing before the Armed Services Committee with the Budget Committee involving a man named Chuck Spinney. He testified on a subject which has become quite controversial, the question of estimating cost or cost growth.

I do not want to get into the merits of his position—whether it was historical or whether or not it was predictive. We read in the paper shortly thereafter or learned that he was transferred from his position. Is that true?

Mr. SHERICK. Chuck Spinney?

Senator LEVIN. It certainly bothers me if it is true because the appearance would be that when Congress exercises an oversight function and gets an independent statement from someone in the Defense Department, that there might be action taken.

No. 1, I do not know if it is true that he has been transferred.

No. 2, if he were, I do not know that it had anything to do with the fact that he testified before our committee. But the appearance, if true, is certainly not conducive to our exercise of congressional oversight.

Could you look into that issue and tell us whether or not he was transferred? Are you familiar with him?

Mr. SHERICK. Oh, yes. I do not know that he has been transferred.

Senator LEVIN. I do not know either. It is just what I read.

Could you find out whether or not in fact he was transferred? If so, when and what the background of that transfer was, whether it had anything to do with his testimony before the committee?

Mr. SHERICK. Yes, sir.

[The information follows:]

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., March 25, 1983.

Hon. CARL M. LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: When we met this past week you asked me to inquire into a story you had heard about the possible transfer of Mr. Charles Spinney.

I have personally spoken to Dave Chu, Director, Program Analysis and Evaluation, and the senior official for whom Mr. Spinney works, and to Mr. Spinney himself. I can assure you that Mr. Spinney has not been transferred. He has had, however, a change in his specific assignment. He is now working on a different project from his previous assignment on realistic budgeting.

You can rest assured that I too am very concerned about allegations or perceptions of retribution in general, and in particular, with regard to Mr. Spinney. Should any surface in the future, I will run them to ground. I thank you for the opportunity to respond to this most serious issue.

Sincerely,

JOSEPH H. SHERICK,
Assistant to the Secretary of Defense
(Review and Oversight).

Senator LEVIN. Thank you. We might as well start with a noncontroversial subject.

Mr. SHERICK. Thank you, Senator.

Chairman TOWER. Anything further by members of the committee?

Mr. Sherick, I would say offhand you are in pretty good shape with this committee.

Mr. SHERICK. Thank you.

Chairman TOWER. So you might quit while you are ahead.

Mr. SHERICK. I appreciate that.

Chairman TOWER. Thank you very much.

I am prepared to entertain a motion that the nomination be favorably reported. I am aware we do not have a quorum, but if nobody raised the point, it will be all right.

Senator JEPSEN. I so move.

Chairman TOWER. We will poll the committee if that is agreeable. Any disagreement with that?

Senator KENNEDY. No objection.

Senator LEVIN. Not at all.

Chairman TOWER. We will poll the committee. I anticipate then that the nomination will be favorably reported by the chairman.

Senator JEPSEN. Do you want to take a vote of the ones here?

Chairman TOWER. All in favor say aye.

[Chorus of ayes.]

Chairman TOWER. Opposed no.

The ayes have it.

We have some other matters to take up today.

Senator KENNEDY. Could I ask a question, Mr. Chairman?

I remember the mention of the Spinney article in Time magazine which also stated that there was going to be some review of the facts that were raised in that article.

I do not know whether that was being done by the Defense Department or being done by the committee or whether there was any effort to do it. There were a number of allegations, representations, charges, figures that were used in that.

I think it might be of some value. I read that magazine article. I would be interested as a member of the committee.

Chairman TOWER. There has been some staff work done on it at the request of Senator Goldwater. I know that DOD has prepared something on that. We will make whatever has been done available to members of the committee. I will be perfectly delighted to direct the staff to pull together their own observations on it and we can have those before the committee.

Senator KENNEDY. Thank you.

Chairman TOWER. I think it is important that a statement of that sort in a major news periodical be evaluated.

Senator KENNEDY. I would expect during the course of debates on the weapon systems that will be used as a reference document. I think it is of value to us, either this committee or the Defense Department, to know if there are mistakes in those.

Chairman TOWER. I think there were some errors of omission in the presentation. Certainly we will have the staff prepare something.

[Whereupon, at 2:50 p.m., the committee proceeded to other business.]

[The nomination of Joseph E. Sherick was reported to the Senate by Senator Tower on March 22, 1983, with the recommendation that the nomination be confirmed. The nomination was confirmed by the Senate on April 28, 1983.]

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